State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

MARY ANN WRIGHT
Acting Division Director

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Governor

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Lieutenant Governor

February 3, 2005

Mr. Robert Jornayvaz
Moab Salt, LLC
1801 Broadway, Suite 800
Denver, Colorado 80202

Subject: Follow-up to January 6, 2005, Bond Discussion Meeting; Moab Salt, LLC; Cane Creek Potash Mine; M/019/005; Grand County, Utah

Dear Mr. Jornayvaz:

Thank you for coming to our office to discuss bonding of the Cane Creek Mine with members of the minerals staff and with Mark Mesch, Acting Associate Director of Mining. Notes from this meeting were prepared by Paul Baker, and a copy is enclosed. Please let us know if you feel these notes need to be corrected.

Any sort of innovative approach to bonding would require approval from the Board of Oil, Gas and Mining, but the Division can make a recommendation to them if it feels a specific proposal should be accepted.

The meeting included discussion of using certain pieces of land as collateral for reclamation, and we understood you would be providing copies of the appraisals for this land. We would like to view these appraisals. There is merit in using land as collateral bond, but we would have serious concerns about using land on which mine facilities are located. If Moab Salt forfeited its bond, the Division would need to liquidate the land to provide money for reclamation, but we anticipate the land would be very difficult to sell without first doing the reclamation.

You asked that we consider whether it would be possible to use fair market value (FMV) instead of generally accepted accounting practices (GAAP) to determine if Moab Salt/Intrepid meets the standards to qualify for a self bond. The Board has ultimate authority to determine if it will accept a self bonding proposal, but the Division would not recommend a change in the practice of using GAAP methods. Accounting using fair market value methods would be considered more volatile and would impose increased risk to the Division. When it comes to assuring reclamation, the Division must be adverse to risk.

Information allowed to be kept confidential under the R647 rules is that which relates to the location, size, and nature of a mineral deposit. If you submit financial information that is normally available to the public from sources other than the Division, we would not be able to keep it confidential. If you submit other financial information and request that it be kept confidential, we would mark it confidential and keep it in a file separate from public records. If someone filed a request to see it under the Government Records and Management Act (GRAMA), we would evaluate the information and the request and would seek your approval before releasing it; however, information relating to a Board decision cannot generally be kept confidential.

We anticipate the Board would view favorably the establishment of an escrow account with funds that could be released incrementally as reclamation is completed, but an escrow account established to fund reclamation projects is unacceptable. Additionally, any agreement of this nature would need to include reporting and accounting provisions, particularly for those portions of the money not placed in government-secured funds. As you recognize, the Division would need to hold some form of surety in addition to the escrow account until the escrow account was large enough to cover the entire cost of reclamation.

As discussed in the meeting and in the enclosed memorandum, the funding model for the escrow account needs to be changed to reflect cost increases. Although the rate of future increases is obviously not known, we agreed you could use an annual rate of three percent.

Once you have submitted the appraisals and any additional information you would like us to consider, we will contact you to schedule another meeting.

Sincerely,

Daron R. Haddock

Daron R. Haddock
Permit Supervisor
Minerals Regulatory Program

DRH:PBB:jb
Enclosure: Meeting Notes
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GAYLE F. McKEACHNIE
Lieutenant Governor

State of Utah

Department of Natural Resources

ROBERT L. MORGAN
Executive Director

Division of Oil, Gas & Mining

MARY ANN WRIGHT
Acting Division Director

January 11, 2005

Mr. A. Wright - see attached notes of concern.

TO: Mary Ann Wright, Acting Director

THRU: Mark Mesch, Acting Associate Director of Mining MRM

THRU: Daron R. Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist PBB

SUBJECT: <u>Meeting to Discuss Bonding, Moab Salt LLC, Cane Creek Mine, M/019/005, Grand County, Utah</u>

Purpose of Meeting: To discuss alternative options for bonding the Cane Creek Potash Mine.
Location of Meeting: Division Office.
Time of Meeting: January 6, 2005, 10:00 to about 11:30 AM
Participants: James Whyte, Bob Jornayvaz, and Blaine Rawson representing Moab Salt (Intrepid); Daron Haddock, Mark Mesch, Doug Jensen, and Paul Baker, representing Oil, Gas and Mining (Division)

During this meeting, we discussed ways to bond for reclamation of the Cane Creek Potash Mine using some combination of a contract with the Board of Oil, Gas and Mining, collateral in the form of land, and an escrow account into which Intrepid would make deposits for several years and which would be allowed to grow until it reached the amount needed for reclamation. Although the Division mentioned the possibility of keeping one or more sureties as bond to cover some of the reclamation liability, Intrepid does not want to keep these sureties. They feel that money currently being paid to surety companies could be better utilized and should be made available for actual reclamation.

Prior to the meeting, the Division received correspondence from Intrepid with some details of a bonding proposal which includes elements of a contract with the Board of Oil, Gas and Mining combined with an escrow account.

Steve Schneider, the Oil and Gas Audit Manager, reviewed the information and determined Intrepid fails the self bonding qualification ratio normally used by the Division and the Board. The people representing Intrepid requested that the Division look at the auditing methods and consider whether it would be possible to use a fair market value (FMV) method rather than generally accepted accounting principles (GAAP). The Division said it would consider this request. Intrepid also agreed to supply more complete financial information but asked if it could be kept confidential. The Division representatives said they would check the rules and GRAMA requirements to see if this could be done.

Intrepid owns two parcels of unencumbered land near Moab which could potentially be used as collateral for reclamation. Intrepid will supply the Division with appraisals of this land, and the Division will look at using this land as security in combination with the board contract and an escrow account.

OGM cannot do this. MM

The other part of Intrepid's proposal is to establish an escrow account upon which they could draw for reclamation funds. There would be an initial deposit of $600,000 followed by monthly deposits of $18,725 through 2014 after which the account would be allowed to grow until reaching the amount estimated to be needed for reclamation. This fund would be managed by a professional money manager, and it would go into diverse investments, such as stocks, bonds, money market funds, etc. At a rate of 5.5 percent, the amount currently estimated to be needed for reclamation would be attained in 2022.

The Division escalates reclamation costs each year depending on inflation, so the amount needed for reclamation in 2022 will be greater than the current estimate. Although the exact escalation figure is not known, a reasonable estimate is three percent annually. Intrepid agreed to use this figure and to revise their bond funding model.

"Correct" MM

Although Intrepid would want to use the money in the escrow account to do reclamation work, the Division would not be able to release money until corresponding reclamation was completed. Normally, an operator completes a major phase of reclamation before requesting partial release, but to facilitate release of the money that had been put aside for reclamation, the Division could release smaller amounts as portions of the reclamation were completed.

Since the operator is proposing a board contract, it is ultimately the board's decision whether to accept the operator's proposal; however, the operator would like the Division's endorsement before approaching the Board with a specific proposal. The Division personnel agreed to discuss the proposal among themselves, with Steve Schneider, and with Mary Ann Wright, Acting Director. Following these internal discussions, the Division will contact the operator to schedule another meeting.

In summary, Intrepid agreed to:

1. Revise the bond funding model to include a three percent annual escalation for the bond amount.

2. Provide the Division with appraisals of its properties.

The Division agreed to:

1. Consider whether FMV accounting methods could be used to determine if Intrepid qualifies for a Board Contract.

2. Decide if financial information can be protected as confidential under GRAMA.

3. Hold internal discussions to examine the different elements of the bonding methods and decide if the Division could support some combination of these elements in a proposal before the Board.

4. Contact the operator to schedule another meeting.

PBB:jb
cc: Minerals File
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